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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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In the Matter of)

OCT - 7 2002

 Amendment of the Commission's Rules)
 Concerning Maritime Communications)
PR Docket No. 92-257
FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY
 Petition for Rule Making filed by)
 Regionet Wireless License, LLC)

RM-9664

To: The Commission

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Mobex Communications, Inc. ("Mobex"), pursuant to Section 1.429(g) of the Rules and Regulations of the Federal Communications Commission ("FCC or Commission"), hereby respectfully submits its Reply to the Opposition to Petition for Reconsideration (Havens's Opposition) filed in the above captioned matter by Warren C. Havens (Havens). In support of its position, Mobex shows the following.

Havens's Opposition Was a Bad Faith Pleading

Havens's Opposition makes no sense on its face. Regardless of whether Havens intends to participate in the forthcoming auction, as an incumbent licensee, he can only reasonably favor a 17 dBu service contour, the better to protect his existing authorizations. Instead, Havens merely took yet another opportunity to oppose Mobex for the sake of opposing Mobex. Havens's Opposition was simply a bad faith pleading, worthy of no consideration by the Commission.

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It does not appear from review of the Commission's Universal Licensing System data base that Havens has ever constructed any of the Automated Maritime Telecommunications Systems for which he was regularly authorized. Rather than bringing new service to the public promptly, Havens has been granted an extension of time to construct five of his six regular authorizations and he appears to be seeking a payday when someone buys him out of his portfolio of AMTS and other, unrelated licenses. It is ironic, therefore, that Havens protested Mobex's efforts to establish standardized coverage contours for all incumbents at 17 dBu, including himself. Further, Havens's allegation that Mobex is attempting to expand its coverage is disingenuous and without a shred of proof. Mobex's petition, when granted, will simply retain Mobex's continuous service based on the 17 dBu contours it used in its original applications. Ironically, when the Commission adopts a 17 dBu contour, it will most certainly expand Havens's footprint to the benefit of Havens. That Havens opposes such result reveals his true intent simply to utilize the FCC pleading process as a means to besmirch Mobex with unfounded allegations, repeated *ad nauseam* at every opportunity and in every venue he can imagine, and to file bad faith pleadings with the sole goal of damaging Mobex and wasting the valuable time of the Commission.

Havens Attempted to Raise Improper and Extraneous Issues

Havens attempted to raise issues which cannot be considered in the above captioned matter. At his page 4, Havens suggested that granting the petitions of Mobex and of Paging Systems, Inc. (PSI) would "decrease interest and bids in an auction." Section 309(j)(7)(A) of the Communications Act of 1934, as amended, specifically provides that in prescribing auction regulations, "the Commission may not base a finding of public interest, convenience, and

necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding,” 47 C.F.R. §309(j)(7)(A). Because Havens requested that the Commission do something which it cannot lawfully do, his position should be disregarded.¹ In the same paragraph, Havens suggested that granting the petitions of Mobex and PSI would decrease the territory available for a hypothetical service other than AMTS. Because Havens’s suggestion for a different use of the AMTS band was not within the scope of the instant proceeding, his position should be disregarded.

Havens’s questioning of the status of Mobex licenses was not material or relevant to any issue in the above captioned matter, was entirely outside the scope of the proceeding, and should be disregarded. Havens’s improperly placed attack on Mobex authorizations constituted nothing more than a very much untimely petition for reconsideration of the grant of Mobex licenses, barred by 47 U.S.C. §405(a). It requires no response here.²

¹ It may be noted that Havens’s point could not be reasonably made by an AMTS licensee who intended to compete for geographic area licenses. If Havens intends to compete, he could only reasonably hope for the lowest possible auction price. If, by his suggesting that he is opposed to lower prices, Havens was signaling that he did not intend to compete for geographic area licenses, then one must wonder why he chose to oppose Mobex’s petition for reconsideration since he would not be adversely affected by grant of Mobex’s petition.

² Since one may reasonably conclude that Havens does not intend to participate in the auction for AMTS licenses, and since his AMTS authorizations compete nowhere with Mobex, one is left to wonder why he demonstrates such antipathy to Mobex.

To the extent that the Commission might be misled in the instant rule making proceeding by a Havens error, Mobex hastens to correct Havens's assertion at his page 6 that Exhibit II to Mobex's petition for reconsideration was unexplained. Mobex explained at its pages 9-10 that "attached as Exhibit II hereto are maps of [the WATERCOM] system based upon 17 dBu contours. 38 dBu contours are also shown."

The VHF Maritime Service Contour Should Be Adopted

In its Petition for Reconsideration in the above captioned matter, Mobex made two essential points. One point concerned the incumbent service contour to be protected. The other point concerned the ratio of desired incumbent to undesired geographic area signal to be protected. Havens opposed Mobex on only one of those issues.

Mobex explained that it had designed its system to comply with the requirement of the Commission's Rules that it provide a continuity of service to a waterway. Relying on the Commission's Part 80 standard for VHF Public Coast stations, Mobex sited many of its stations to provide the required continuity of service using a 17 dBu service contour. The Commission considered each application and granted each based on the applicant's showing of continuity of service. Mobex had a reasonable expectation that the Commission would not disrupt the continuity of service which the Commission had required, which Mobex provides, and on which the public has come to rely.

Contrary to Havens's position, Mobex was entirely reasonable in relying on the VHF Public Coast station standard because the Automated Maritime Telecommunications System service *is a VHF Public Coast station frequency modulation service*. AMTS service is not similar in any way to the amplitude modulation, extremely narrowband, land mobile service in the 220-222 MHz band. In designing its systems, Mobex could have had no reason to expect that the Commission would ever look to private land mobile service rules, rather than to public maritime service rules for its service contour standard. The lack of a reasoned explanation for the Commission's choice demonstrates that Mobex could have had no reason to expect the Commission's action.

Contrary to Havens's unsupported assumptions concerning Mobex's motivations, Mobex designed its coastal systems to serve maritime traffic in the most economical and practical manner available. When providing a new service, it was eminently reasonable for Mobex to concentrate its efforts in locations where it could provide the greatest amount of service to the largest number

of members of the maritime public, including areas which are major international ports and harbors.

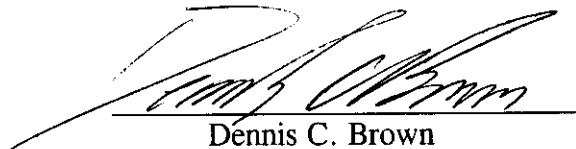
No One Opposed An Adequate Interference Protection Ratio

Although Mobex raised two principal issues in its petition for reconsideration, Havens opposed only one. Neither Havens nor any other party opposed Mobex's demonstration that an 18 dB carrier to interference ratio is required for reliable operation of an AMTS. Accordingly, the Commission can grant Mobex's petition for reconsideration to provide adequate interference protection for incumbent systems without the risk of further controversy.

Conclusion

For all the foregoing reasons, Mobex respectfully requests that the Commission dismiss or deny Havens's Opposition and grant Mobex's petition for reconsideration forthwith.

Respectfully submitted,
MOBEX COMMUNICATIONS, INC.



Dennis C. Brown

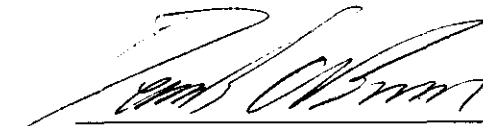
126/B North Bedford Street
Arlington, Virginia 22201
703/525-9630

Dated: October 7, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this seventh day of October, 2002, I served a copy of the foregoing
on the following person by placing a copy in the United States Mail, first class postage prepaid:

Warren C. Havens
2509 Stuart Street
Berkeley, California 94705


Dennis C. Brown